

THE GEORGE WASHINGTON UNIVERSITY
Washington, DC

MINUTES OF A REGULAR MEETING
OF THE FACULTY SENATE HELD ON
MARCH 12, 1993, IN LISNER HALL
ROOM 603

The meeting was called to order by President Trachtenberg at 2:30 p.m.

Present: President Trachtenberg, Vice President French, Parliamentarian Schechter, Belknap, Divita, East, Englander, Felts, Goulard, Gupta, Harrington, Hill, Holmes, Mahmood, Mitchell, Morgan, Robinson, Salamon, Schiff, Silber, Smith, Smythe, Vontress, and Wallace

Absent: Registrar Gaglione, Captain-Hidalgo, Carson, Cohn, Fowler, Friedenthal, Frieder, Johnson, Keimowitz, Maddox, Miller, and Park

APPROVAL OF MINUTES

The minutes of the regular meeting of February 12, 1993, were approved as distributed.

INTRODUCTION OF RESOLUTIONS

No resolutions were introduced.

FOLLOW-UP ON EXECUTIVE COMMITTEE REPORT DATED FEBRUARY 10, 1993, TO FULL-TIME FACULTY REGARDING NONCONCURRENCES, SCHOOL-WIDE PERSONNEL COMMITTEES, AND THE FACULTY CODE

Professor Robinson explained that the Executive Committee has requested the Committee on Appointment, Salary and Promotion Policies to review Resolutions 91/6 and 91/9 establishing the School-Wide Personnel Committees and also to review the Report of the Executive Committee dated February 10, 1993, regarding nonconcurrences, together with a memorandum from Professor Vaill suggesting a change in the language of Resolution 91/6. In its request to the Appointment, Salary and Promotion Committee, the Executive Committee stated the following:

In view of the fact that there have been distinctly different interpretations of the role of the Department faculty and Personnel Committees, as well as questions on the part of colleagues dealing with the establishment of Personnel

Committees, we need to revisit the original intent of the Faculty Code. Your Committee's commentary and advice on these matters would be most important and timely.

It would also seem appropriate at this point for the ASPP Committee to review the implementation, effectiveness, and the response, to date, to School-Wide Personnel Committees.

Professor Robinson then invited commentary from Senate members that might be useful to the ASPP Committee in its consideration of these matters.

Professor Englander noted that the School of Business and Public Management was opposed at the outset to the addition of a Personnel Committee. The School decentralized its APT process to departments when the School reorganized a few years ago. Currently, the new Personnel Committee acts as advisory to the dean, but its only responsibility is simply to review whether or not the departmental APT procedures are followed.

Professor Silber raised a question about the standards used by Personnel Committees. He indicated that the tenor of communications from the administration over the last few years seems to suggest the importance of instruction as one of the key ingredients in evaluating faculty members and he wondered if the previous standards would continue to apply or not.

Professor Gupta stressed that it is the deans who must find compelling reasons; they must not simply state that they agree with a negative recommendation of the Personnel Committee. He pointed out that there have been cases where the Personnel Committee asserted material that formed the basis for their negative recommendation to the dean though the department and the faculty member were not given an opportunity to rebut the negative information. Professor Gupta stated that in order to sustain a valid nonconcurrence, it is not sufficient for the deans to state in effect "my committee says no, so I say no"; the deans must hold their Personnel Committee accountable for its opinions and ensure that the departments are provided opportunities to correct the record. Professor Vontress stated that the Personnel Committee is only advisory; the dean makes the decision, not the Personnel Committee. Professor Divita pointed out that this whole issue, it seemed to him, really centered around the meaning of the word "advisory" which could mean different things to different people. He said that if we want to deal with this ambiguity, some parameters must be set as to precisely what level of advice is being sought from the Personnel Committee. This advice ought to be considered simply an input, not the final judgment for the dean.

which appears to be the situation we have seen recently. He said that we should look at this in a positive rather than a negative way.

Professor Morgan recalled that the Senate thought that Personnel Committees would serve a useful purpose, but, however one defines "advisory," it is only the dean who can nonconcur based upon compelling reasons. It is quite clear that it is the dean's responsibility to determine whether the advice received from the Personnel Committee constitutes a sufficient basis for a conclusion that there are compelling reasons for a nonconcurrence. Professor Divita said he thought the Personnel Committee should be limited to factual data but should avoid drawing a conclusion because in the past, where a Personnel Committee drew a conclusion and presented it to the dean, the dean accepted the conclusion, and that is inappropriate. Professor Mahmood said he thought that the issue of Personnel Committees should be revisited as he did not know if there was any justification for them at all.

Professor Wallace noted that he sat on the Columbian College Personnel Committee when it was first established and that one of the first things it did was to develop a detailed set of criteria that had not existed before and which now brought uniformity into the process. He said there is an important role for the Personnel Committee as long as it works carefully with the criteria it has and sees that the departments are following those criteria in making recommendations for tenure or promotion.

Professor Hill then read a memorandum dated January 11, 1993, from Professor Lloyd Bowling, Chair of the Personnel Committee in Columbian College for five years, in which he describes how the Personnel Committee functions as follows:

After having served on the Personnel, Tenure and Promotion Committee for almost 5 years, I can truthfully say, we have come a long way. We have managed to get departments, for the most part, to give us better thought-out justifications. Some result in cover memos of 4 and 5 pages. We have managed to get them to address the different journals in their departments and indicate which are more significant than others. And, we have been able to get them to address how effective the candidate is as a pedagogue. Only in rare instances do they address quantity. And, I feel very strongly that departments should address that for the Tenure and Promotion Committee. Although now and again members of that committee seem to feel competent in talking about the output, I am always a little nervous until that actually comes from the

department. I will never be able to judge the significance of books vs. articles for every discipline for which the T and P committee must review, nor do I frankly want to. Further, some books are short and some are long. Some take a lot of research and some take very little. I do not think that anyone is really able to judge the significance of a publication unless they have studied the field. It would greatly help if the departments were forced to grapple with quantity as well as quality of publications.

It also appears to me that the departments should be asked to discuss any negative comments that are received in letters of recommendation from outsiders. It can be quite bothersome to members of the T and P Committee to have a letter in the file that is negative . . . I would ask departments to address any negative comments. Trying to second-guess a negative comment can take up a lot of time on the part of the T and P committee.

Professor Hill said he thought Professor Bowling's description of the role of a Personnel Committee was that envisioned by the Senate in passing Resolution 91/6 establishing School-Wide Personnel Committees. He said that the Senate's understanding of that Resolution was clear: that personnel committees are advisory to the dean. They cannot nonconcur. Only deans can nonconcur and must give their reasons for doing so.

Further discussion followed by Professors Divita, Gupta, Mahmood, Morgan, Silber, Robinson, and Englander.

GENERAL BUSINESS

I. NOMINATION FOR ELECTION OF THE NOMINATING COMMITTEE FOR THE 1993-94 EXECUTIVE COMMITTEE

Professor Robinson, on behalf of the Executive Committee, moved the following nominations for election to the Nominating Committee: Professors William R. Felts, Jr., (Medical), Convener; Mary M. Cheh (Law); Salvatore F. Divita (SBPM); John A. Frey (CCGS); Khalid Mahmood (SEAS); and Martha N. Rashid (SEHD). There were no additional nominations, and the nominees were elected unanimously.

II. REPORT OF THE EXECUTIVE COMMITTEE

Professor Robinson reported on the activities of the Executive Committee. (The report is enclosed.)

III. INTERIM REPORTS OF SENATE COMMITTEE CHAIRS

Professor Englander, Chair of the Committee on Faculty Development and Support, reported that the Committee was of the view that the organizational climate in university departments could be improved by making use from time to time of the services of those faculty members who have skills in the area of organizational behavior and development. The Committee planned to conduct a survey of faculty to determine whether faculty who have consulting experience with organizations would be willing to help departments and schools work through basic organizational issues. Professor Englander said the Committee would appreciate any comments the Senate might have with regard to this survey.

BRIEF STATEMENTS (AND QUESTIONS)

Professor Schiff said he would like to remind the Senate that the GW Women's Basketball Team will be playing their semi-final game in the Atlantic 10 tournament tonight and he thought it would be nice to have the stands filled.

The President said he wished to note that an interesting report procured from the University of Chicago would be mailed shortly to the Senate members. This report, he said, touches on a subject that was a source of concern at the February Senate meeting and he asked that the Senate members take a moment to read it since he would like to make some comments about it at a future Senate meeting. He thought this report was a particularly important one -- perhaps a bellwether of discussions that will take place in faculty senates from coast-to-coast within the next year or two -- and one that might be useful for our Senate to look at as well.

Professor Silber asked the President if the various articles he sends to the faculty from time to time are representative of his own point of view or are merely intended as "thought-provokers." President Trachtenberg said the reason he sends the articles is partly because faculty may not have the opportunity to see the many articles that come to him from a variety of sources and partly because we need to be concerned about what is being said about universities. He said he was deeply troubled by the fact that over the last four years universities have received a bashing that he thought unprecedented in this country, and universities have not been very good in making the case that they serve a function in this country which is a unique and special one, and cannot be dispensed with.

Professor Mahmood inquired about the state of the budget, inasmuch as a two million dollar shortfall had been discussed a few meetings ago. The President said that, in an institution of

GW's size with an operating budget of half-a-billion dollars a year, he hoped that the faculty would not have an excessive sense of alarm about a two million dollar shortfall which is a manageable one through prudent adjustments. Vice President Katz said that the budget through the second quarter is basically on target and he believed the University will have a balanced budget after making the appropriate adjustments.

Professor Holmes asked if faculty salary increases will be back on schedule, and the President replied that all salary increases will be given effective in January just as they were this year.

Professor Englander inquired about the date of notification letters, and Vice President French said that notification letters will be sent out on or about May 7th in accordance with the resolution passed by the Senate.

Professor Englander questioned whether the revenue that comes in from GW's participation in the NCAA Tournament would go to the Athletics Department or the University. President Trachtenberg explained that the Athletics Department is a part of the University. Moreover it is a misperception that intercollegiate athletics are a source of great revenue to the institution; most institutions either break even or lose money. However, he said, intercollegiate athletics do give the University visibility as reflected in the very nice article in The Washington Post recently.

ADJOURNMENT

Upon motion made and seconded, President Trachtenberg adjourned the meeting at 3:30 p.m.

A handwritten signature in cursive script, reading "J. Matthew A. Gaglione". The signature is written in dark ink and is positioned above the printed name and title.

J. Matthew A. Gaglione
Secretary



FACULTY SENATE

MEMORANDUM

February 10, 1993

TO: FULL-TIME FACULTY COLLEAGUES
FROM: Executive Committee, Faculty Senate
RE: Nonconcurrences; School-Wide Faculty Personnel Committees;
and the Faculty Code

As you may know from the Executive Committee reports to the Senate, two Administration nonconcurrences with faculty promotion recommendations are being reviewed by the Board of Trustees.

In the process of preparing the report for the Board of Trustees and through discussions with administrative officers and faculty, it became apparent that there are distinct variances in the definition of nonconcurrences, compelling reasons, and the role of the School-Wide Personnel Committees. There are also variances regarding the reading of the Faculty Code with respect to policy and procedures.

In the accompanying report the Executive Committee has attempted to provide an institutional and current reading of policy and process with regard to nonconcurrences, compelling reasons, and the faculty role in promotion and tenure decisions. In reviewing this document, please note that the GWU Faculty Code, approved by the Board of Trustees, follows the Joint Statement on Government of Colleges and Universities developed and accepted by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges in 1966.

Enclosure

REPORT OF THE EXECUTIVE COMMITTEE OF THE FACULTY SENATE

THE FACULTY CODE: RESPECTIVE ROLES OF FACULTY AND ADMINISTRATION IN PROMOTION AND TENURE DECISIONS

I. OVERVIEW OF THE PROCESS

1. The review of the candidate is made by the Departmental Committee(s) on Promotion and/or Tenure in accordance with University, School, and Department criteria and procedures.
2. The recommendation is forwarded to the Academic Dean.
3. The Academic Dean seeks advice of the School-Wide Personnel Committee.
4. The Academic Dean determines whether he/she will sustain the recommendation or noncur and advises the Academic Vice President accordingly.
5. In the event of a nonconcurrence by either the Dean or the Vice President, the relevant Department and the Executive Committee are notified.
6. The Executive Committee meets separately with the Department Chair/representative; and the Dean. If a resolution cannot be achieved and neither party withdraws, the matter, with an accompanying report from the Executive Committee, is forwarded to the Board of Trustees for resolution.

II. THE FACULTY CODE AND TENURE/PROMOTION: INTERPRETATION AND PROCEDURES

The Faculty Code provides that tenure and promotion recommendations "shall normally follow faculty recommendations" and that "departures from the standard shall be limited to those cases involving compelling reasons." A nonconcurring administrative officer must show "compelling reasons" and must give "supporting reasons" for the nonconcurrence. [Faculty Code, p.19, Par. 3 & 4]

For reasons of the special nature of faculty self-governance and the presumption of the specialized professional qualifications of the recommending faculty, the faculty is given a large measure of discretion by the Faculty Code. Under the Code, in the case of a nonconcurrence, a heavy burden of overcoming a presumption in favor of the Department's recommendation is placed upon the Dean. As indicated, the latter must identify the "compelling reasons" for his/her nonconcurrence. [Faculty Code, p.19, Par. 3]

Institutionally the term "compelling reasons" has been interpreted as constituting more than a different conclusion on the part of the administrator. "Compelling reasons" have been identified as: financial constraints of the University; programmatic constraints; failure of the faculty to conform to published promotion or tenure procedures; arbitrary and capricious recommendations; insufficient supporting evidence provided by the Department; and inadequacy of the reasons presented by the Department. The Code, as noted above, also requires that the administrative official who nonconcurs

provide "supporting reasons." [Faculty Code, p.19, Par. 4]

The George Washington University Faculty Code follows the Joint Statement on Government of Colleges and Universities, developed and accepted in 1966 by the American Association of University Professors, the American Council on Education, and the Association of Governing Boards of Universities and Colleges. The section from the Joint Statement pertaining to the role of the faculty vis-à-vis personnel actions is as follows:

Faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, the granting of tenure, and dismissal. The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy. Furthermore, scholars in a particular field or activity have the chief competence for judging the work of their colleagues The governing board and president should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail. [AAUP, Section V, p.109, Par. 3]

It would seem reasonable to expect a nonconcurrence to include the following:

1. A statement of nonconcurrence, with explicit conclusions;
2. A reasoned justification of the nonconcurrence, citing explicit factual findings and professional judgments, and referring in explicit terms to the record submitted with the recommendation; and

3. Specific detailed findings with supporting evidence relating to the alleged shortcoming with regard to the individual faculty member's professional achievement, quality of work, and general or specific professional reputation, in order to demonstrate "compelling reasons."

The nonconcurrence, then, should be supported by findings sufficient to rebut and overcome the evidence submitted in support of the faculty recommendation.

III. RECENT PROVISIONS IN THE FACULTY CODE: ROLES OF RESPECTIVE PARTIES

The Faculty Code, the Joint Statement, and traditional practice identify the Department Committee as the group with primary professional expertise with respect to the candidate's record. In establishing the School-Wide Personnel Committees [Senate Resolutions 91/6 and 91/9], the intent of the Faculty Senate and the Committee on Appointment, Salary, and Promotion Policies which presented the Resolutions was that these groups serve as multiple disciplinary decanal advisory groups rather than to impose a substantive judgment on top of that of the departments. They are explicitly advisory to the Dean; they were not intended to substitute their judgment for that of the Department faculty. Resolutions 91/6 and 91/9

establishing School-Wide Personnel Committees read as follows:

D. School-Wide Personnel Committees

Res. 91/6 To implement the procedures required in Sections B.3 and C.2 above, each school or college shall establish a school-wide personnel committee, either as an elected standing committee or of the school faculty acting as a committee of the whole, to consider recommendations for appointments with tenure, promotion, or tenure of regular full-time faculty. Such committees may request additional information, documentation, or clarification respecting such recommendations. Further:

1. An elected standing committee, sitting in review of recommendations originating from a department or equivalent unit, shall advise the dean of that school or college whether the candidate has met the relevant school and department criteria, and whether it has identified any "compelling reasons" which may exist for not following the departmental or unit recommendation. Such advisories shall not be construed as "faculty recommendations" as defined by Section B.3 of the Procedures for Implementation of the Faculty Code.

Res. 91/9 2. When the faculty of a school or college, sitting as a committee of the whole, serves as the school's personnel committee, and initiates recommendations to the dean for appointments and actions affecting renewal of appointments, promotion, tenure designation, and termination of service, such recommendations shall be construed as "faculty recommendations" in the sense of the Procedures, Section B.3.

The role of the Executive Committee of the Faculty Senate with respect to nonconcurrences should also be considered. Composed of one elected representative from each school, it is not intended to function as yet another committee reviewing the specific qualifications of the candidate. The Executive Committee, like the advisory personnel committees of the Schools and the Dean, is not,

as a group, professionally qualified to evaluate de novo the substantive conclusions of the faculty. The role of the Executive Committee is an institutional one, to serve the process, not to independently substitute its judgment for that of the Department faculty. It seeks to obtain an agreeable resolution through examination of both the recommendation and the nonconcurrence.

Institutional experience indicates that the interpretation of the Faculty Code and the role of the relevant groups within the tenure/promotion process, as outlined above, is appropriate. In the majority of cases, concurrence has been reached through internal discussion and debate. As verified by past experiences, the University has been effectively served by its system of faculty self-governance to solve internal problems and disagreements.

February 10, 1993

REPORT OF THE EXECUTIVE COMMITTEE
MARCH 12, 1993
BY PROFESSOR LILIEN F. ROBINSON, CHAIR

On behalf of my colleagues on the Executive Committee, I would like to report briefly on some of the matters that have come before the Committee since the February meeting of the Senate.

I. GRIEVANCES

Professor Robert E. Park (National Law Center) was appointed by the Executive Committee as the Special Mediator in the grievance, previously reported upon, from the medical school.

A grievance from the engineering school, also previously reported upon, is still in the first phase of informal review by the Executive Committee.

The Chair of the Executive Committee has also been contacted with respect to another potential grievance. As is always the case, the Chair of the Committee attempts to provide information and suggestions for possible avenues of resolution, as well as advice with respect to Code-protected rights and procedures.

II. OTHER MATTERS

1. The Executive Committee appointed Professor Peter P. Hill to succeed Professor Roderick Davidson on the Special Committee to review Faculty Senate representation and terms.

2. Under consideration by the Executive Committee is the establishment of an ad hoc faculty committee to study the role and responsibility of Departmental Chairs. The Executive Committee welcomes your comments with respect to the desirability of such a committee and specific matters which it should address.

3. A subcommittee of the Executive Committee is in the process of preparing a resolution on religious holidays for the April meeting of the Senate.

The next meeting of the Executive Committee meeting is on March 26th. The agenda for the April meeting will be set at that time. The Committee would appreciate receiving resolutions prior to that date.

Thank you.

THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON, DC

The Faculty Senate

March 1, 1993

The Faculty Senate will meet on Friday, March 12, 1993, at 2:10 p.m. in Lisner Hall 603.

AGENDA

1. Call to order
2. Short recess for the purpose of having a group photograph taken of the 1992-93 Faculty Senate
3. Approval of the minutes of the regular meeting of February 12, 1993
4. Introduction of Resolutions
5. Follow-up on Executive Committee Report dated February 10, 1993, to Full-Time Faculty regarding Nonconcurrences, School-Wide Faculty Personnel Committees, and the Faculty Code; Professor Lilien F. Robinson, Chair, Executive Committee
6. General Business:
 - (a) Nomination for election of the Nominating Committee for the 1993-94 Executive Committee: Professors William R. Felts, Jr., (Medical), Convener; Mary M. Cheh (Law); Salvatore F. Divita (SBPM); John A. Frey (CCGS); Khalid Mahmood (SEAS); and Martha N. Rashid (SEHD)
 - (b) Report of the Executive Committee: Professor Lilien F. Robinson, Chair
 - (c) Interim Reports of Senate Committee Chairs
7. Brief Statements (and Questions)
8. Adjournment



J. Matthew Gaglione
Secretary